

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	No. 1:13cr70
)	
DAVID LUX,)	
Defendant.)	

Motion for Entry of Consent Order of Forfeiture

The United States, by and through undersigned counsel, and with the consent of the defendant, respectfully moves this Court to enter the attached proposed Consent Order of Forfeiture. In support of this motion, the United States notes that, pursuant to the defendant's Plea Agreement, the defendant has consented to the entry of this proposed order, to forfeit all of the defendant's interests in the property that is the subject of the proposed order, and that the conduct described in the Statement of Facts entered at the time of the defendant's plea provides a basis for the forfeiture of the property sought by the United States. In addition, Fed. R. Crim. P. 32.2(b)(1)(A) provides that where forfeiture is sought, the Court must determine what property is subject to forfeiture "[a]s soon as practical after . . . a plea of guilty . . . is accepted." Accordingly, the United States, with the consent of the defendant, requests that the Court enter this proposed order, which the United States will submit to the Court in paper copy with original signatures contemporaneous to filing this motion.¹

¹ In the defendant's sentencing position filed on June 7, 2013, the defendant references "restitution" in the approximate amount of \$115,000 and the specific amount of \$115,556.96. *See* Docket No. 16, at 1, 12, 21. The sentencing position also refers to this consent motion and order of forfeiture in the amount of \$115,556.96. *Id.* at 21. In the United States' sentencing position, the United States asks for forfeiture in the amount of \$115,556.96 and asks this Court

Respectfully submitted,

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not to impose restitution for this defendant. *See* Docket No. 17, at 2, 16 n. 17. Following filing of the parties' sentencing positions, undersigned counsel contacted counsel for the defendant regarding the discrepancy. The parties resolved the issue and are hereby jointly requesting that the Court enter this forfeiture order prior to sentencing and not require any restitution from this defendant at sentencing. (In addition, counsel for the defendant has represented that he intends to withdraw any objection to a two-level enhancement for sophisticated means, *see* Docket 16, at 1, n. 1, in light of the parties' agreement in the Plea Agreement that the enhancement applies, *see* Docket No. 10 ¶ 5(c).)

CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2013, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (“NEF”) to:

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